UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEQUAN PATTERSON,

Defendant.

No. 2:12-cr-00437-TLN

ORDER

On May 29, 2015, Defendant Dequan Patterson ("Defendant") filed a motion with this Court seeking to correct or reduce his sentence pursuant to 18 U.S.C. § 3553(a)(2).[1] (ECF No. 118.) The Court sentenced Defendant to a term of 72 months imprisonment on May 21, 2015. (ECF No. 117.) Defendant's sentence was issued in accordance with the plea agreement reached between parties, which agreed to a specific sentencing range under Federal Rule of Criminal Procedure 11(c)(1)(C) ("Rule 11(c)(1)(C)"). (ECF No. 111.) Defendant did not move for a variance under 18 U.S.C. § 3553(a)(2) at the time of his sentencing.

The decision to vary upward or downward from the United States' Sentencing Guidelines' sentencing range is within the discretion of this Court. *Gall v. United States*, 552 U.S. 38, 48–49

[1] Defendant's motion asks for a "4 level downward departure pursuant to Title 18 U.S.C. 3553(a)(2)." However, 18 U.S.C. § 3553(a)(2) provides for a variance from the term indicated by the United States' Sentencing Guidelines. Therefore, a four level departure is not appropriate under the code. *Gall v. United States*, 552 U.S. 38, 49 (2007).

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(2007). The Court has considered the Defendant's specific circumstances as indicated in his motion and the Court finds no basis for a downward variance under 18 U.S.C. § 3553(a)(2).

Moreover, the parties entered into a plea agreement pursuant to Rule 11(c)(1)(C) and agreed to a term a imprisonment not less than 60 months and not more than 96 months. (ECF No. 111 at 2.) The Court accepted the terms of that plea agreement and may not now modify the term of imprisonment to a term outside the agreed upon range without vacating the plea agreement. The Court chooses not to vacate the plea agreement.

For the reasons set forth above, Defendant's motion to correct or reduce his sentence is hereby DENIED.

Dated: August 5, 2015

Troy L. Nunley
United States District Judge